

<p style="text-align: center;">KENTUCKY CORRECTIONS Policies and Procedures</p>	<p>Policy Number</p> <p style="text-align: center;">28-01-01</p> <p>Date Filed</p> <p style="text-align: center;">January 12, 2005</p>	<p>Total Pages</p> <p style="text-align: center;">4</p> <p>Effective Date</p> <p style="text-align: center;">May 26, 2005</p>
<p>Authority/References</p> <p>KRS 61.876(1)(a), 196.030, 196.035, 196.075, 439.340(1), 439.470(2), 439.480(1) & (7), 439.510, 532.050(1) & (2) P & P ACA 3-3213, 3-3224</p>	<p>Subject</p> <p style="text-align: center;">PROBATION AND PAROLE INVESTIGATION REPORTS, INTRODUCTION, DEFINITIONS, CONFIDENTIALITY, TIMING AND GENERAL COMMENTS</p>	

I. DEFINITIONS

As used in this document, the following definitions apply:

"Corroboration" means contacting a third party in attempt to confirm that some statement or fact is true. An example may be the lack of verification of an offender's educational attendance and achievement and a family member's statement supporting the offender's claim. Corroboration is not verification.

"Misdemeanor presentence investigation report" means a written report prepared after adjudication of guilt that does not include all of the investigative areas found in a felony presentence investigation. Misdemeanor shall be marked on the report in bold.

"Partial investigation report" means a limited report prepared by a probation and parole officer other than the officer in the jurisdiction of final or pending disposition. A partial investigation shall be completed upon receipt of a valid request from proper authority both within or outside of the State. This is a one page document.

"Postsentence investigation report" means a written report prepared on a probation or shock probationer whose probation has been revoked; or a capital offense case immediately sentenced and remanded to the custody of Corrections; or any case in which a presentence investigation is not ordered. This report is completed to assist the probation and parole officer, the adult institution and the State Parole Board. This report contains essentially the same information as presentence investigation.

The defendant:

1. waives the statutory right to have a presentence investigation report submitted and is committed to serve a felony sentence.
2. waives the statutory right to have a presentence investigation report submitted and is granted probation for a felony conviction.

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3. has a previously probated felony sentence revoked by the court and is remanded to Corrections.

"Presentence investigation report" means a written court ordered report prepared by the probation and parole officer after adjudication of guilt. It shall be a record of information reflecting the felony offender's background to assist the court and other criminal justice agencies in determining an effective program for the offender including an analysis of the history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

"Supplemental postsentence investigation report" means a one (1) page report prepared following final sentencing which includes identifying data, legal information and the official version of the offense. This report shall be prepared on an offender who is an inmate of Corrections at the time of the final sentencing and has an additional sentence imposed with those covered in a submitted presentence investigation report.

II. POLICY and PROCEDURE

- A. The primary purpose of the presentence investigation report is to provide the sentencing court with timely, relevant and accurate data to aid the court in determining the appropriate sentence. However, other important purposes of this report shall be to:

1. aid the probation and parole officer in supervising a person on probation, parole, diversion, or while an inmate is in a community center,
2. assist Central Office and institutional staff in institutional classification, treatment and in release planning,
3. assist the Parole Board in its consideration of parole,
4. provide information for systematic research, and
5. assist in the consideration of executive pardon or commutation of sentence.

B. Presentence Investigation Timing

Neither a presentence investigation, nor any other investigation, shall be conducted until the defendant is adjudicated guilty of an offense. The only exception to this policy shall be if:

1. the court has ordered an investigation prior to the adjudication of guilt,

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2. the defendant, on advice of counsel, has consented to the investigation, or
3. the defendant and counsel have BOTH signed a consent form allowing the investigation to proceed before determination of guilt.

C. Utilization of Staff

Staff, other than probation and parole officers, may be utilized to collect information during the preparation of an investigation. Clerical staff, student placements, student interns, and volunteers may be used, if feasible, to obtain data for an assigned investigation. The investigating probation and parole officer remains responsible for the accuracy of the final report.

D. Presentence Investigation Report Content Review with Sentencing Judges

The District Supervisor shall meet at least annually with the chief or sentencing judges in the district to review the content of presentence investigations and reports submitted to the courts. Within Department policy, the District Supervisor shall make any necessary changes to better serve the needs of the court. Changes that effect Department policy and procedure shall be submitted to the Director of Probation and Parole for consideration.

All probation and parole personnel shall be sensitive and responsive to a reasonable request for information by judges and court personnel. A situation involving a difference of opinion between any court and the Division of Community Services and Facilities shall be referred to the District Supervisor and the Director for resolution.

B. Report Format and Content

The preparation and submission of a presentence investigation report on every offender, who has a potential sentence of one (1) year or longer, is encouraged by Corrections.

Different investigation report formats shall be used by a probation and parole officer depending upon the severity of the sentence and the availability of existing case material. A limited investigation report shall apply to the following type of cases:

1. A misdemeanor offender whose sentence shall be twelve (12) months in jail or less.
2. A felony offender who waived a presentence investigation that was not ordered and who is presently serving on a felony commitment.
3. A felony offender committed to serve a sentence in addition to sentences covered in a submitted presentence or postsentence investigation.

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4. Any partial investigation answering a request for specific, limited information.

Information contained in any probation and parole investigation report shall be verified or corroborated. Any entry which lacks corroboration or data shall be accompanied by an explanation.

C. Confidentiality

The presentence investigation report and other background investigations shall be confidential documents and treated as confidential by all Department employees. Any investigation completed prior to adjudication of guilt may not be disclosed to anyone without a specific written waiver authorizing disclosure, signed by the defendant and his counsel.

All other investigations, including presentence reports, shall be confidential, privileged documents classified as “closed” under the State’s Open Records Law. Therefore, all employees shall be expected to:

1. Refrain from discussing information about a case in an open or needless manner; and
2. Ensure that files and records shall not be left unattended or given to a person who does not have a proper and legitimate interest in the case.

An individual outside of Corrections with clearance to physically read or examine investigative case material on a convicted offender shall be:

1. Secretary’s Office - Justice Cabinet
2. Kentucky State Police
3. Governor’s Office
4. Attorney General’s Office
5. Circuit Judge or his designee
6. Federal Law Enforcement Agencies
7. Federal Probation Officers
8. Staff of Social Service Agencies working with a Corrections institution.

Local law enforcement and governmental agencies do not possess the clearance to read or examine investigative case material; this shall not imply that specific information may not be shared with them. The rule to follow shall be that the requesting agency shall have a legitimate reason for requesting information and the information requested shall be of a factual, non-sensitive nature.